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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,027	07/10/2001	Pekka Marjelund	975.357USW1	1526
32294	7590	05/23/2005	EXAMINER	
SQUIRE, SANDERS & DEMPSEY L.L.P.			PEZZLO, JOHN	
14TH FLOOR				
8000 TOWERS CRESCENT			ART UNIT	PAPER NUMBER
TYSONS CORNER, VA 22182			2662	

DATE MAILED: 05/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/902,027

Applicant(s)

MARJELUND ET AL.

Examiner

John Pezzlo

Art Unit

2662

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 May 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 2-7 and 9-12.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☒ Other: see Attachment.


JOHN PEZZLO
PRIMARY EXAMINER

The applicants argue that the 103 rejection is not proper because that all of the elements are disclosed, particularly "reserving transmission resources for handling non-real-time traffic dynamically based on a knowledge of overall available transmission resources of a radio transceiver device of said radio access network and the information related to the transmission resources required for handling real time traffic by said radio transceiver". The examiner respectfully disagrees. The examiner has made a proper 103 rejection as outlined in 1966 by the Supreme Court in *Graham vs. John Deere* as follows:

1. Determining the scope and content of the prior art.
2. Ascertaining the difference between the claimed invention and the prior art.
3. Resolving the level of ordinary skill in the pertinent art

The examiner has disclosed two references, which utilize ATM protocols to route packets. The primary reference, Freeburg, discloses handling real time traffic (CBR and rtVBR) in a radio network controller. The primary reference does not disclose the handling of non-real time traffic (VBR and ABR) in an ATM network. The secondary reference, Moore, teaches how ATM protocols handle non-real time traffic and real time traffic in an ATM network. The examiner has provided the suggestion and motivation for combining the teachings Freeburg with Moore to have a radio transceiver of Freeburg handle non-real time ATM traffic as taught by Moore to meet the claimed elements.

Freeburg is relevant art in the same area as the invention both are handling ATM protocols over wireless channels and Moore teaches ATM protocols in ATM networks. The examiner has pointed out the differences with the claim and the primary reference and has shown how it would have been obvious for an ordinary person of skill in the art to utilize the knowledge of ATM networks to handle both real time and non-real time traffic in a wireless environment.